[Cite as *State v. Ralios*, 2015-Ohio-1337.]

STATE OF OHIO	)	IN THE COURT OF APPEALS
	)ss:	NINTH JUDICIAL DISTRICT
COUNTY OF MEDINA	)	

STATE OF OHIO	C.A. No. 14CA0030-M
Appellee	
v.	APPEAL FROM JUDGMENT ENTERED IN THE
MATEO RALIOS	COURT OF COMMON PLEAS COUNTY OF MEDINA, OHIO
Appellant	CASE No. 13CR0348

DECISION AND JOURNAL ENTRY

Dated: April 6, 2015

HENSAL, Presiding Judge.

{¶1} Mateo Ralios appeals from his convictions in the Medina County Court of Common Pleas. For reasons set forth below, we affirm.

I.

{¶2} Mr. Ralios was indicted on two counts each of aggravated vehicular homicide and aggravated vehicular assault and one count of receiving stolen property. Mr. Ralios pleaded guilty to aggravated vehicular homicide, aggravated vehicular assault, and receiving stolen property, and the State dismissed the other counts of aggravated vehicular homicide and aggravated vehicular assault. The trial court sentenced Mr. Ralios to an aggregate term of 15 years in prison.

{¶3} Mr. Ralios has appealed, raising a single assignment of error for our review.

II.

ASSIGNMENT OF ERROR

> THE TRIAL COURT ERRED IN FINDING THAT THE PLEA ENTERED INTO BY APPELLANT WAS A KNOWING AND VOLUNTARY PLEA, IN VIOLATION OF CRIMINAL RULE 11.

{¶4} Mr. Ralios argues that his plea was not knowing, voluntary, or intelligent because the trial court did not comply with the requirements of Criminal Rule 11. We disagree.

{¶5} "'When a defendant enters a plea in a criminal case, the plea must be made knowingly, intelligently, and voluntarily. Failure on any of those points renders enforcement of the plea unconstitutional under both the United States Constitution and the Ohio Constitution.'" *State v. Barker*, 129 Ohio St.3d 472, 2011-Ohio-4130, ¶ 9, quoting *State v. Engle*, 74 Ohio St.3d 525, 527 (1996). "Crim.R. 11(C) governs the process that a trial court must use before accepting a felony plea of guilty or no contest." *State v. Veney*, 120 Ohio St.3d 176, 2008-Ohio-5200, ¶ 8.

> In felony cases the court may refuse to accept a plea of guilty or a plea of no contest, and shall not accept a plea of guilty or no contest without first addressing the defendant personally and doing all of the following:
>
> (a) Determining that the defendant is making the plea voluntarily, with understanding of the nature of the charges and of the maximum penalty involved, and if applicable, that the defendant is not eligible for probation or for the imposition of community control sanctions at the sentencing hearing.
>
> (b) Informing the defendant of and determining that the defendant understands the effect of the plea of guilty or no contest, and that the court, upon acceptance of the plea, may proceed with judgment and sentence.
>
> (c) Informing the defendant and determining that the defendant understands that by the plea the defendant is waiving the rights to jury trial, to confront witnesses against him or her, to have compulsory process for obtaining witnesses in the defendant's favor, and to require the state to prove the defendant's guilt beyond a reasonable doubt at a trial at which the defendant cannot be compelled to testify against himself or herself.

Crim.R. 11(C)(2).

{¶6} Although strict compliance with Criminal Rule 11 is required for the constitutional notifications, substantial compliance is sufficient for the nonconstitutional notifications. *Veney* at ¶ 14. "'Substantial compliance means that under the totality of the circumstances the defendant subjectively understands the implications of his plea and the rights he is waiving. Furthermore, a defendant who challenges his guilty plea on the basis that it was not knowingly, intelligently, and voluntarily made must show a prejudicial effect.'" *Id*. at ¶ 15, quoting *State v. Nero*, 56 Ohio St.3d 106, 108 (1990). In order to demonstrate prejudice, the defendant must show the plea would not have been made if the correct notifications had been given. *Veney* at ¶ 15. However, failure to provide the constitutional notifications renders the plea presumptively invalid and the defendant need not make a showing of prejudice. *See id*. at ¶ 29.

{¶7} Because Mr. Ralios needed the proceedings to be interpreted, an interpreter was present via telephone during the plea and sentencing hearings. At the plea hearing, the trial court informed Mr. Ralios that, because he was not a citizen of the United States, he faced potential consequences from his plea, including deportation, denial of naturalization, and exclusion from admission to the United States. The trial court also informed Mr. Ralios that, by pleading guilty, he was giving up his right to a public trial by jury, his right to an attorney, his right to subpoena witnesses, his right to confront witnesses, and his right to require the State to prove his guilt beyond a reasonable doubt. The trial court told Mr. Ralios that the first count in the indictment was aggravated vehicular homicide and that the crime was punishable by 11 years in prison and a maximum fine of $25,000 and that his driver's license would be suspended for life. The court also informed Mr. Ralios that count three was aggravated vehicular assault and that the potential penalties included a mandatory license suspension of one to five years, five years in prison, and a

$10,000 fine. Regarding count five, the trial court told Mr. Ralios that he was charged with receiving stolen property and that the penalties for that charge were a maximum term of 18 months imprisonment and a $5,000 fine. The court went on to inform Mr. Ralios about post-release control and finally that "Counts I and III require mandatory imprisonment."

{¶8} From our review of Mr. Ralios' plea colloquy, we conclude that the trial court notified Mr. Ralios of all his constitutional rights, the maximum penalty for each offense to which he was pleading guilty, and that he was not eligible for community control on Counts I and III. In other words, the trial court provided all of the notifications required by Criminal Rule 11. Nevertheless, Mr. Ralios argues that his plea was not knowing or voluntary because the trial court's notifications were confusing. Mr. Ralios' argument appears to be that the order in which the trial court provided the notifications was confusing and that this issue was exacerbated by him not being fluent in English.

{¶9} While we recognize that the trial court could have given the colloquy notifications in a different order that may have been more clear, we cannot say that the colloquy was inherently confusing. Nor do we find persuasive Mr. Ralios' argument that the colloquy became more confusing because he was not fluent in English. The court provided an interpreter for Mr. Ralios, and Mr. Ralios does not argue or assign as error that the interpreter was unqualified or deficient in her performance. Absent some evidence that the interpreter was failing to properly relay the statements of the trial court, we cannot discern how the mere presence of the interpreter would render an otherwise sufficient plea colloquy insufficient. Furthermore, Mr. Ralios gave no indication during the proceedings that he did not understand what the trial court was telling him. Thus, we conclude that, under the totality of the circumstances, Mr. Ralios' plea was knowing and voluntary.

{¶10} Accordingly, his assignment of error is overruled.

III.

{¶11} In light of the foregoing, the judgment of the Medina County Court of Common Pleas is affirmed.

Judgment affirmed.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Medina, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(C). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

JENNIFER HENSAL
FOR THE COURT

CARR, J.
SCHAFER, J.
CONCUR.

APPEARANCES:

CONRAD G. OLSON, Attorney at Law, for Appellant.

DEAN HOLMAN, Prosecuting Attorney, and MATTHEW A. KERN, Assistant Prosecuting Attorney, for Appellee.